



**TOWN OF LONDONDERRY
PUBLIC WORKS DEPARTMENT
268B MAMMOTH ROAD
LONDONDERRY, NH 03053
TEL (603)432-1100 EXT 193
FAX (603)432-1128**

August 13, 2013

USEPA
5 Post Office Square – Suite 100
Mail Code-OEP06-4
Boston, MA 02109-3912
ATTN: Newton Tedder

RE: Comments to the 2013 Draft MS4 NPDES Permit

Dear Mr. Tedder:

The Town would like to express our appreciation for the granting two extensions to the review period. The extensions gave the Town an additional time to review the proposed language contained in the permit and consider the ramifications of the permit requirements.

Because of the limited staffing, and the complexity of the Permit proposal, the Town of Londonderry joined the Coalition of the local MS-4 communities and jointly prepared comments that will be submitted on the behalf of the Town of Londonderry from Sheehan, Phinney, Bass & Green, PA.

The Town would also like to note that we met with the staff at NHDES who have worked with the MS4 Communities to understand the permit implications and to find the most cost-effective and efficient way to comply with the Clean Water Act requirements. It is our hope that once the comment period closes and EPA begins the task of responding to the comments, that EPA will join our local communities in these inter-governmental implementation discussions.

In addition to the comments from Sheehan, Phinney, Bass & Green, PA the Town offers the following:

Section 1.9.2 dealing with Historic Properties requires documenting all drainage structures within our MS4 system. This potentially opens the Town up to onerous Section 106 reviews for each and every catch basin, detention pond and drainage swale that we need to work on. To avoid lengthy Section 106 reviews the EPA/NHDES could work with the State Historic Preservation Officer (SHPO) to develop a programmatic agreement regarding historic properties and MS4 related activities. This would streamline and enhance historic preservation and project delivery efforts.

Section 2.1.1.c establishes the requirement to remedy any conditions causing an exceedance of water quality standards within 60 days of a determination that our discharge is causing an exceedance. The section specifically spells out that the compliance clock begins to accrue immediately and continues until the source is remedied and that there is no grace period. This, coupled with the fact that we have to conduct dry weather sampling of all of our outfalls at the same time will put the Town into almost immediate non-compliance. We recommend the permit be modified to allow communities to work toward compliance in a realistic and cost effective manner. A significant portion of the water quality data that this permit is being based on is dated, insufficient and the sampling techniques are unknown. To help deter the stringent requirements of the water quality exceedance, the Town is asking for time to evaluate the water quality data that NHDES has used to determine the 303 (d) list. Within the first 3 years of the permit we could focus on data verification. We could then prioritize our outfalls based on the use of the receiving water value (as determined by NHDES) and risk to the public. We can then implement a rigorous sampling program of the high value/high priority water bodies and develop plans to remedy any sources of contaminants specifically from our MS4.

Section 2.1.2 prohibits any new or increased discharges (including pollutant loadings). Does this mean that the Town needs to notify NHDES every time we issue a driveway permit or add a catch basin to our drainage system? Do we also have to provide a waste load analysis for every driveway? This provision seems administratively burdensome and the Town doubts that NHDES has the resources to respond to such a requirement.

Section 2.2.2.a.ii.b.3 states that all planned BMP's shall be fully implemented within three years of the permit effective date. The Town requests the ability to prioritize our outfalls to concentrate on the highest priority outfalls first. We suspect that some of the BMP's will take longer than 5 years to implement.

Section 2.2.2 lays out a schedule requiring completion of all 3 phases of compliance with the permit within the 5 year term of the permit. Town of Londonderry has had a stormwater program for many years and has already achieved water quality improvements through the implementation of structural and non-structural stormwater Best Management Practices. Based on our experience we believe that to implement many requirements of this draft permit in five year period is not realistic. We also believe that EPA recognizes that storm water compliance needs to be a long-term solution.

On Page 27 of 60 under 2.3.4.2.b there is reference to a 30 day time limit to remedy and illicit discharge. This is inconsistent with the 60 day limit mentioned earlier.

This permit represents an increase in administrative and technical effort that would be impossible for any municipality to absorb. It is not necessarily the permit conditions themselves but rather the sheer volume of the impaired water bodies. According to EPA's website; New Hampshire ranks 7th in the nation in the number of impaired water bodies.

Another concern is that mercury, though it is clearly established is the result of air disposition not storm water runoff is still a concern based on the increased requirements to manage sediment removed from the roadways that could have mercury contaminants present.

Beaver Brook is listed with chloride impairment. The goal is to substantially reduce chloride discharges. The majority of chloride discharges are from salt as it is applied to roadways in treatment of icy and snowy conditions. The Town has a primary duty to public safety and has to carefully weigh the salt reduction benefits to the environment with the Town's legal exposure to provide for safe travel.

Also, the Town feels that adequate time is needed to be built into the schedule to allow the legislature to grant the necessary authority to affected communities to regulate chloride use on private properties with approved site plans. The Town believes that compliance with chloride use will be disastrous to NH's business community. Large organizations such as Supermarkets could potentially have to have its contractors comply with various different chloride management ordinances. This would be accomplished much more efficiently at the state level.

The IDDE Screening requires to inventory the system in the first year. It would be beneficial to allow the inventory to be completed within the first 3 years of the permit. This would better coincide with what was requested above for prioritizing water bodies.

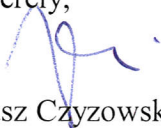
Holding the Town immediately and legally responsible for the illegal acts of others who have illicit discharges into our system is not required in the storm water regulations. Given the statutory penalties required by the CWA as they compare to the statutory penalties that a NH community can impose on a violator; this creates a very unfavorable position for a local government to be placed in by this permit.

This permit deals with watershed based issues. However, the permit, and its compliance responsibilities are being issued to the individual communities despite not controlling the flows from neighboring communities that contribute to water quality impairments. There is also atmospheric deposition which is a national problem. This permit should be restructured to address impairments on a watershed basis with all stakeholders contributing in a fair and equal manner as opposed to individual communities being forced to assume the full implementation and financial responsibility.

Section 2.3.7.d.iii requires sweeping of uncurbed streets. This is not practical as the efficiency of a mechanical sweeper is greatly reduced in the absence of curbing. Uncurbed streets are self-cleaning as most of the roadway discharge is absorbed into the ground below the ditch lines. Of our 180 miles of road in town only few miles are with curb. If the Town is required to sweep all 180 miles of road the approximate cost would exceed \$100,000 per year.

We are requesting that once the comment period has closed the EPA should reach out to all MS4 communities in an effort to work cooperatively to revise the permit to ensure that the local communities receive a more comprehensive permit which preserves the environment and uses limited local resources wisely. It will benefit all parties if the permit is issued for public comment again.

Sincerely,



Janusz Czyzowski, P.E.
Director of Public Works and Engineering
Town of Londonderry, NH